

§ 301.6316-3

26 CFR Ch. I (4-1-04 Edition)

(b) The term *nonconvertible foreign currency* means currency of the government of a foreign country which, owing to (1) monetary, exchange, or other restrictions imposed by the foreign country, (2) an agreement entered into with the United States of America, or (3) the terms and conditions of the U.S. Government grant, is not convertible into U.S. dollars or into other money which is convertible into U.S. dollars. The term shall not, however, include currency which, notwithstanding such restrictions, agreement, terms, or conditions, is in fact converted into U.S. dollars or into property which is readily disposable for U.S. dollars.

(c) If the taxpayer computes taxable income under the accrual method, then the term *received* shall be construed to mean “accrued.”

§ 301.6316-3 Allocation of tax attributable to foreign currency.

(a) *Adjusted gross income ratio.* The portion of the tax which is attributable to amounts received in nonconvertible foreign currency shall, for purposes of applying § 301.6316-1 to the currency of each foreign country, be the amount by which:

(1) The amount which bears the same ratio to the entire tax for the taxable year as (i) the taxpayer's adjusted gross income received in that currency bears to (ii) the adjusted gross income determined under section 62 by taking into account the entire gross income and all deductions allowable under that section without distinction as to amounts received in foreign currency, exceeds

(2) The total of the allowable credits against tax, and payments on account of tax, which are properly allocable to the amount of that currency included in gross income.

(b) *Example.* (1) For the calendar year 1955 Mr. Jones and his wife filed a joint return on which the adjusted gross income is as follows, after amounts received in foreign currency had been properly translated into United States dollars for tax computation purposes:

Fulbright grant received by Mr. Jones in nonconvertible foreign currency	\$8,000
Dividends received by Mr. Jones entitled to dividends-received credit	500
Compensation for personal services of Mrs. Jones ..	3,000
Net profit from business carried on by Mrs. Jones ...	2,500

Total adjusted gross income	14,000
-----------------------------------	--------

(2) The following amounts are allowable as properly deductible from adjusted gross income, no determination being made as to whether or not any part of them is properly allocable to the Fulbright grant:

Deduction for personal exemptions	\$3,000
Charitable contributions	500
Interest expense	400
Taxes	300

Total allowable deductions	4,200
----------------------------------	-------

(3) For the taxable year the following amounts are allowable as credits against the tax, or as payments on account of the tax:

Foreign tax credit for foreign taxes paid on Fulbright grant	\$300.00
Dividends-received credit	20.00
Credit for income tax withheld upon compensation of Mrs. Jones	304.80
Payments of estimated tax (see § 301.6316-6(b)(2) for determination of amounts):	
U.S. dollars	\$426.32
Foreign currency	893.88
	1,320.20

Total allowable credits and payments	1,945.00
--	----------

(4) The portion of the tax which is attributable to amounts received in nonconvertible foreign currency is \$33.49, determined as follows:

Adjusted gross income	\$14,000.00
Less: Allowable deductions	4,200.00
Taxable income	9,800.00
Tax computed under section 2	2,148.00
Ratio of adjusted gross income received in nonconvertible foreign currency to entire adjusted gross income (\$8,000-\$14,000) (percent)	57.14
Portion of tax attributable to nonconvertible foreign currency (\$2,148×57.14 percent)	\$1,227.37
Less:	
Credit for foreign taxes paid on Fulbright grant	\$300.00
Payment in foreign currency of estimated tax	893.88
	1,193.88
Portion of tax attributable to amounts received in nonconvertible foreign currency	83.49

§ 301.6316-4 Return requirements.

(a) *Place for filing.* A return of income which includes amounts received in foreign currency on which the tax is paid in accordance with § 301.6316-1 shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. For the time for filing income tax returns, see sections 6072 and 6081 and §§ 1.6072-1, 1.6081-1, and 1.6081-2 of this chapter (Income Tax Regulations).

(b) *Statements required.* (1) A statement, prepared by the taxpayer, and certified by the foundation, commission, or other person having control of the payments made to the taxpayer in nonconvertible foreign currency, shall be attached to the return showing that for the taxable year involved the taxpayer is entitled to pay tax in foreign currency in accordance with section 6316 and the regulations thereunder. This statement shall disclose the total amount of grants or compensation received by the taxpayer during the taxable year under the authority of section 32(b) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), or of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451), or section 104 (h), (j), (k), (o), or (p) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (h), (j), (k), (o), (p)), and the amount thereof paid in nonconvertible foreign currency. It shall also state that with respect to the grant or compensation the applicable percentage requirement of § 301.6316-1 is satisfied.

(2) The taxpayer shall also attach to the return a detailed statement showing (i) the computation, in the manner prescribed by § 301.6316-3, of the portion of the tax attributable to amounts received in nonconvertible foreign currency and (ii) the rates of exchange used in determining the tax liability in U.S. dollars. See paragraph (c) of § 301.6316-5.

§ 301.6316-5 Manner of paying tax by foreign currency.

(a) *Time and place to pay.* The unpaid tax required to be shown on a return filed in accordance with § 301.6316-4, whether payable in whole or in part in foreign currency, is due and payable to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, at the time the return is filed. However, see paragraph (d) of this section with respect to the depositing of the foreign currency with the disbursing officer of the Department of State.

(b) *Certified statement.* Every taxpayer who desires to pay tax in foreign currency under the provisions of § 301.6316-1 shall first obtain the certified state-

ment referred to in paragraph (b)(1) of § 301.6316-4.

(c) *Determination of the tax.* In determining the tax payable for the taxable year in U.S. dollars, the taxpayer, with respect to amounts described in paragraph (a) of § 301.6316-1, or amounts described in paragraph (b) of § 301.6316-1 received before November 1, 1965, shall use the rates of exchange which most clearly reflect the correct tax liability in dollars, whether it be the official rate, the open market rate, or any other appropriate rate. With respect to amounts described in paragraph (b) of § 301.6316-1 received on or after November 1, 1965, the taxpayer shall use the official rate of exchange in determining the tax payable for the taxable year in U.S. dollars. After determining the correct tax liability in U.S. dollars the taxpayer shall then ascertain, in accordance with the principles of § 301.6316-3, the portion of the tax which is attributable to amounts received in nonconvertible foreign currency.

(d) *Deposit of foreign currency with disbursing officer.* (1) After the portion of the tax which is attributable to amounts received in nonconvertible foreign currency is determined in U.S. dollars, the amount so determined shall be deposited in the same nonconvertible foreign currency with the disbursing officer of the Department of State for the foreign country where the fund is located from which the payments in nonconvertible foreign currency are made to the taxpayer. The amount of foreign currency to be deposited shall be that amount which, when converted at the rate of exchange used on the date of deposit by that disbursing officer for the acquisition of such currency for his official disbursements, equals the portion of the tax so determined in U.S. dollars.

(2) The disbursing officer may rely upon the taxpayer for the determination of the amount of tax payable in foreign currency but may not accept any such currency for deposit until the taxpayer has presented for inspection the certified statement referred to in paragraph (b)(1) of § 301.6316-4. Upon acceptance of foreign currency for deposit the disbursing officer shall give the taxpayer a receipt in duplicate showing the name and address of the